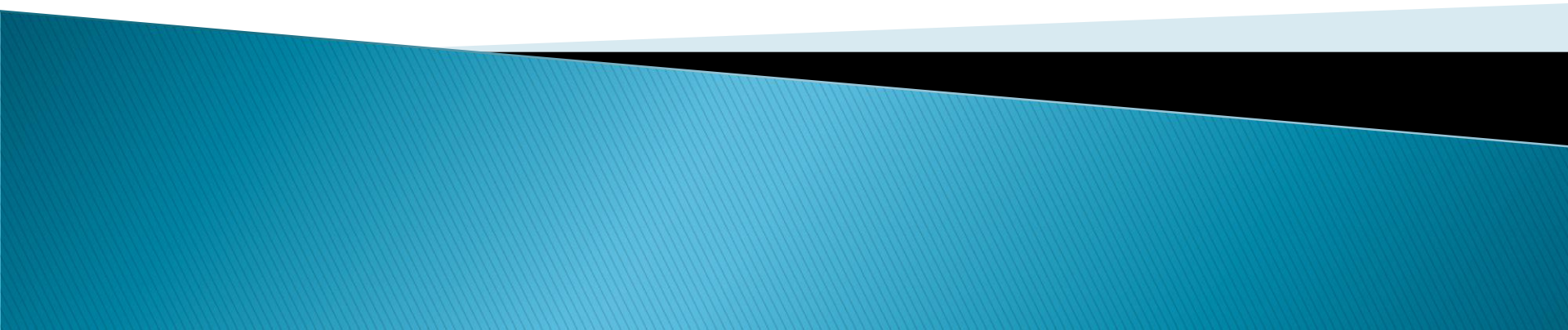


# **Fairfax County Stormwater Management Ordinance**

Small Group Issue Area Summaries

October 28, 2012



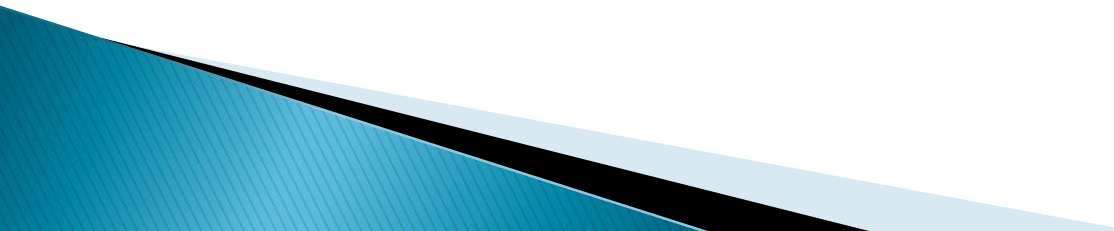
# September Issue Areas

- ▶ Single-Family Home Exemptions/Infill Development
- ▶ Stormwater Facility Inspection Reports by Owners
- ▶ Nutrient Credit Offsets/Pro Rata Share Program

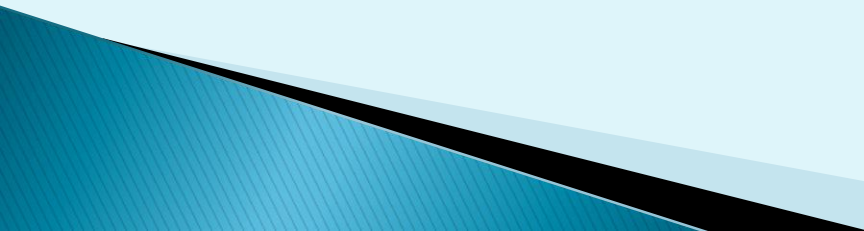
# Single-Family Home Exemptions

- ▶ The Virginia Code allows an exemption for single-family properties between 2,500 SF and one acre.
- ▶ Small BMPs required under these circumstances are difficult to site, track, and enforce.
- ▶ The cumulative impact of infill development and exemptions can negatively affect water quality and flooding.

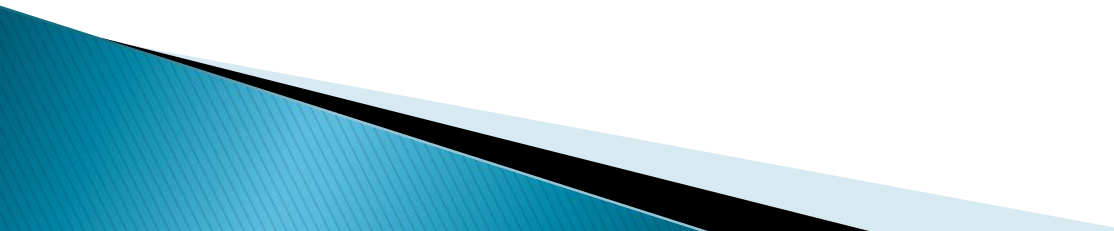
# Discussion Points

- ▶ Consider making exemptions above a certain square feet (possibly 5,000) of disturbance subject to conditions.
  - ▶ Consider site-specific criteria such as existing flooding and stream conditions, soils, ratio of land to impervious cover, and the nature of the structure.
  - ▶ Ensure that available tools are sufficient to make on-site BMPs affordable.
  - ▶ Consider innovative arrangements such as requiring the owner to purchase insurance for repairs or having the County charge a fee similar to an HOA to conduct maintenance.
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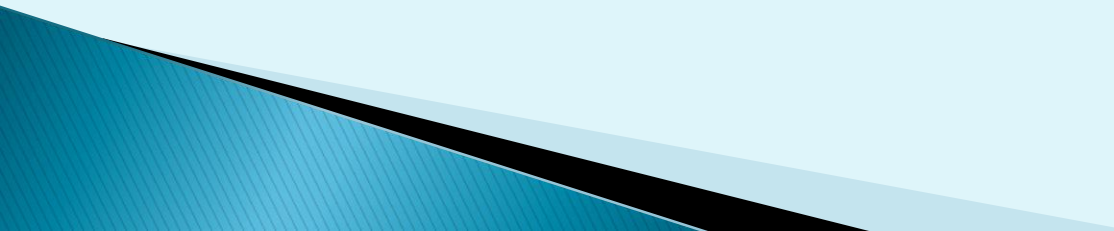
# Facility Inspections by Owners

- ▶ Virginia Code requires “submission of inspection and maintenance reports” to the County.
  - ▶ This is different than the compliance inspections that must be performed by the County at least once every five years.
  - ▶ The County has discretion over the qualifications required for those submitting inspections.
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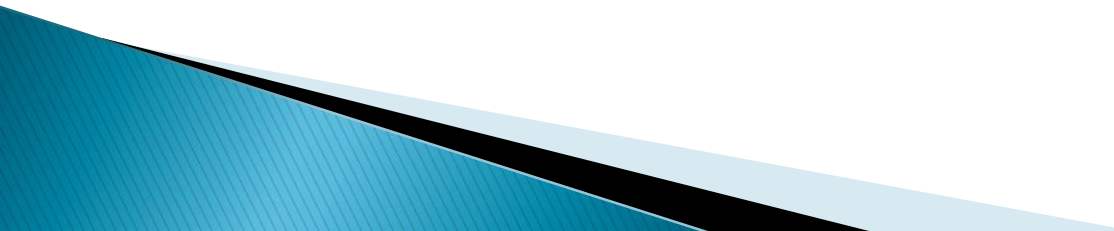
# Discussion Points

- ▶ Develop a matrix of BMP-specific inspection needs:
    - Type of BMP
    - Inspector training requirements based on BMP type
    - HOA/non-HOA/commercial facility
    - Existing/new facility
    - How often will inspection and reporting be required
  - ▶ Education is key:
    - Ensure the real estate transfer process highlights legal responsibilities
    - Facilities should be clearly identified
  - ▶ Enforcement needs to be clearly defined.
  - ▶ Consider cost share to help rehabilitate older facilities that have not been maintained.
- 

# Offset Provisions

- ▶ Virginia Code requires the County to allow nutrient offset credits under certain circumstances.
  - ▶ The County maintains the ability to allow offsets under other circumstances.
  - ▶ Offset credits can be used to reduce compliance costs.
  - ▶ Some local streams are nutrient sensitive, such as the Occoquan and the Potomac River.
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# Discussion Points

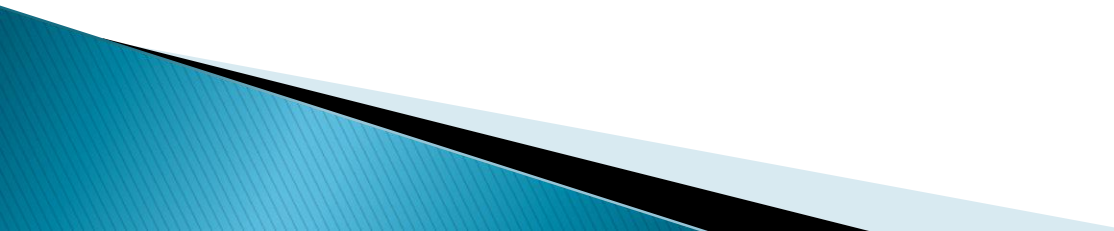
- ▶ Balance the impact to local water resources with cost efficiency.
  - ▶ Incentivize keeping offsets locally:
    - Reduce the coverage required to be eligible for automatic offsets if credits are kept locally or the development advances other County goals.
    - Incentivize small local banks created by development that is willing to go above minimum requirements.
    - Facilitate voluntary swaps between local development.
  - ▶ Minimize the need for tracking or reporting.
- 



# Impact on Pro-Rata Share

- ▶ The new Runoff Reduction Method could affect pro-rata share calculations since the methodology addresses water quantity through infiltrating runoff into the soil.

# Discussion Points

- ▶ Investigate how the new regulations impact the final build-out of a watershed and how the watershed needs to be managed. Adjust pro-rata accordingly.
  - ▶ Consider consolidating the program; there are too many individual watersheds with individual rates.
- 


# October Issue Areas

- ▶ Adequate Outfall Requirements
- ▶ BMP Facilities in Residential Areas
- ▶ Restrictions on Use of Certain BMPs

# Adequate Outfall and Detention

- ▶ New detention provisions that eliminate the need for a downstream adequacy review are less stringent than the current County PFM.
- ▶ “Pre” conditions in the PFM are assumed to be a forest in good condition, while the state defines “pre” as the existing conditions of a site. The state requires the use of an improvement factor.
- ▶ Requirements for federal facilities are more stringent than both state and County requirements.
- ▶ The Virginia Code allows Fairfax County to establish a more stringent standard.

# Discussion Points

- ▶ Consider the location of a project in a watershed when determining detention requirements.
  - ▶ Consider added flexibility to the “bed and banks” requirement recognizing other stable natural systems (such as wetlands).
  - ▶ For erosion protection, consider a compromise to design to the 1.5 year storm.
  - ▶ For flood protection, the 10-year storm is increasing and it may be more appropriate to set a rainfall value at which there is a requirement for flood protection.
  - ▶ Consider a hybrid of the state detention method using good forest cover as the pre-development condition.
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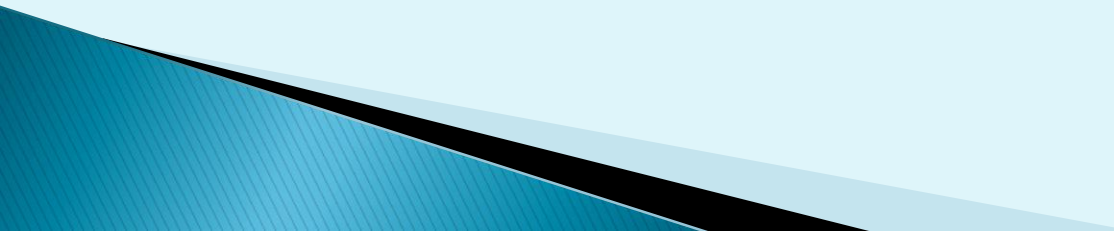
# BMPs in Residential Areas

- ▶ New state technical requirements favor implementation of smaller LID-style facilities on individual lots.
- ▶ Current County policy is to require BMPs to be on out-lots except for infill or subdivisions with three or fewer lots.
- ▶ Requiring small BMPs to be placed on out-lots could present significant site design challenges and have an impact on lot yield.
- ▶ The state regulations recognize the challenge of on-lot BMPs by providing localities with the option of developing alternative maintenance assurance mechanisms.

# Discussion Points

- ▶ On site residential BMPs should be available as an option under certain, well-defined circumstances.
- ▶ Individual BMPs need to be assessed for appropriateness for on-lot use, including safety and long-term maintenance costs.
- ▶ A robust education program is essential. This includes ongoing education, education when a property is transferred, HOA management companies, and home inspectors.
- ▶ Inspections should be BMP-specific and be done by qualified personnel.
- ▶ Enforcement options may include:
  - Homeowner must hire a third party under the maintenance agreement.
  - Create an entity that homeowners would be required to pay into for maintenance.
  - Use the HOA, if available, for maintenance and enforcement. Need to ensure covenants are designed to provide adequate legal authority.
  - Use tax or other credits to incentivize maintenance. Also creates equity for developments where only some properties have on-lot BMPs.

# Restrictions on Use of BMPs

- ▶ The Virginia Code and BMP Clearinghouse list the BMPs that may be used to meet requirements.
  - ▶ Several are different than what is in the current County PFM or there is no equivalent.
  - ▶ The County may restrict the use of certain BMPs with written justification.
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# Discussion Points

- ▶ Don't automatically take Clearinghouse tools off the table. Approved pollutant removal efficiencies should be used unless there is an actual problem over time.
- ▶ Focus limitations based on structural issues and appropriateness of certain BMPs for specific site conditions.
  - Strengthen the link between planning and stormwater requirements to catch issues with specific BMPs early – i.e., tree loss, aesthetics, impacts to surrounding communities, etc.
  - Require a one-time third party certification for structural soundness to protect against early failure before acceptance by the County as an approved BMP.
- ▶ Assess the maintenance burden of BMPs and put in safeguards. For BMPs with high burdens, consider requiring financial planning for long-term costs.